

APPROVED
Zoning Board of Adjustment
Meeting Minutes
September 13, 2016

Members: Steve Filipi, Gretchen Wittenborg, Bob Handy, Jack Ernst, alternate Carmen Yon

Others Present: Chad Beede, ZBA Alternate (minute taker), Susan Silverman, Selectmen's Representative, John LeClair, contractor, and abutters William Townsend and Adam Keese

CTO: 7:05 PM.

7:00 PM Public hearing. Roderick Pierce appeal for variance under Article III, section 127-9, to construct a single family residence in the General Industrial District, located on Route 12S, Map 11 Lot 53.

Mr. Filipi recused himself. As Vice Chairman, Wittenborg seated Carmon Yon, ZBA Alternate to fill the seat.

Wittenborg ask the board if they felt if the application was incorrect and should have also listed section 127-7. She also questioned the hardship section of the application in that it did not explain the hardship clearly.

Wittenborg asked Mr. Pierce when the lot was created. He responded that it was created when Route 12 was rerouted. Mr. Grasewicz said he believed Route 12 was rerouted in 1961. Wittenborg asked if the 386' dimension listed on the drawing was the easterly side of the property and not the dimension running along the asphalt. Mr. Pierce said he was 101' from the side of Route 12 to the corner of the garage foundation.

Wittenborg revisited her question regarding the addition of 127-7 to the application. Wittenborg asked Mr. Pierce if he could give a reason as to why he wanted the variance. He said it was so "he could live and work from the same location." Wittenborg asked for a motion regarding section 127-7. Wittenborg explained that she felt section 127-7 was a better fit for the situation. Yon asked if she was referring to section 127-7, A (2) specifically.

Ernst mentioned that Sandra Gillis had said that the lot had been grandfathered. Before Route 12 had been rerouted there was no zoning ordinance. Mrs. Silverman said there were no restrictions at the time the lot was created.

Wittenborg asked for a motion to close the public hearing, Handy moved and Ernst seconded.

Handy made a motion to grant the variance and Ernst seconded.

- a) *The Variance will not be contrary to the public interest.* Wittenborg noted there would not be substantial change to other uses in the immediate area. Wittenborg, Handy, Ernst and Yon voted in the affirmative.
- b) *The spirit of the Ordinance is observed.* Proposed use does not conflict. Wittenborg, Handy, Ernst and Yon voted in the affirmative.
- c) *Substantial justice is done.* It is a small lot and an appropriate use. Wittenborg, Handy, Ernst and Yon voted in the affirmative.
- d) *The values of surrounding properties are not diminished.* The board agreed. Wittenborg, Handy, Ernst and Yon voted in the affirmative.

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- e) *Literal enforcement of the provisions of the ordinance would result in unnecessary hardship.* The lot size does not lend itself to industrial use. This use can be considered appropriate. Wittenborg, Handy, Ernst and Yon voted in the affirmative.

Wittenborg moved, Ernst seconded and the Board approved the variance. Wittenborg had Mr. Pierce add section 127-7 to the application and initialed it. Wittenborg added the application to the record.

7:30 PM Public hearing. Jacqueline Wood appeal for variance to replace two dwelling structures on the subject lot and consolidate building footprint into one structure on property located at 446 East Lake Road, Map 23, Lot 3, Rural District.

Steve Filipi rejoined the board and Carmen Yon, ZBA Alternate remained seated for member Davis.

Mr. Grasewicz explained the reasoning for removing the two dwelling structures is to help meet the setback requirements. He feels it will make the property less non-conforming than the present. Wittenborg asked what the height of the new structure would be once constructed. Mr. Grasewicz said it would be a two story structure. Yon asked how many bedrooms. The current structures have three bedrooms. The new dwelling will have two bedrooms. Handy asked if it would be a year round home. Mr. Grasewicz said "yes". Yon asked where parking would be located. Mr. Grasewicz said the parking would be moved to the right when facing the house from the street.

Wittenborg asked again what the height of the new structure would be. Mr. Grasewicz estimated it to be 21'. Filipi asked about the depth of the foundation. Mr. LeClair said it would be a crawl space. Handy asked if the existing deck would be removed. Mr. LeClair said that it would be removed. Yon asked about the existing well. Mr. LeClair said there is no well on the property. Mr. Grasewicz said the well will go next to the neighbors well.

Susan Silverman asked what the distance from the dwelling to the property line is. Mr. Grasewicz said currently it is 1.4' and the new dwelling will be 4.4'. Filipi asked what the new porch size would be. Mr. Grasewicz was unsure but estimated 8' x 6'. Filipi asked how much of the deck & dock would be put back after construction. Mr. Grasewicz said the existing deck would be redone but would remain. The bunkhouse deck would be removed.

Mrs. Silverman asked what the plan was to add landscaping and what type of vegetation would be added. Mr. Grasewicz said he was unsure how much landscaping would be required by NH DES. Mrs. Silverman said she was concerned if vegetation was not put back. She stated that it was unhealthy for the lake. She asked the board to consider it as part of the decision making process. Mr. Grasewicz noted that he has not yet performed an analysis regarding how much planting the NH DES might require.

Filipi asked the Board if they would like to perform a site walk. Wittenborg said that she would like to. Filipi asked if during the site walk if Mr. Grasewicz could provide dock and deck dimensions. Ernst asked to have the well placement pointed out. Handy asked to see the septic location. Wittenborg asked to have more definitive information on the completed structure height.

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William Townsend (abutter) asked to know the septic location and if it would remain in the same location as the existing septic. The answer was yes.

A site walk was scheduled for September 15, 2016 @ 5:30PM. Wittenborg pointed out that abutters were welcome to attend.

Filipi made a motion to continue the meeting October 11, 2016 @ 7:00PM, Ernst seconded. Filipi, Wittenborg, Handy, Ernst voted in the affirmative.

8:00PM Public hearing. Johnathan Bartlett appeal for Equitable Waiver of dimensional requirements because a new barn was constructed too close to the property side lot line, located at 31 Angier Road, Map 28, Lot 17.

Mr. Bartlett explained that his deed and the property markers were incorrect. He said he had Skip Hagstrom perform an informal survey prior to construction. Once construction was well under way, the neighbors informed the Bartletts that the structure was on their property. Mr. Bartlett then hired Mr. Grasewicz to perform a survey. Mr. Grasewicz said the deed was correct but confusing because the property line was listed in another section of the deed. Adam Keese the abutter said that the land was his and he now has boulders moved onto his land and a trench dug from the structure to the road. Mr. Bartlett explained the trench was dug to bury the electric. Mr. Bartlett said he now knows the land is not his and will fill in the trench and have the boulders removed.

Mr. Grasewicz said he believes all requirements of Equitable Waiver have been met. He feels it was an error due to the property stakes being incorrect. Handy asked when the Bartlett's realized there was an error. Mrs. Bartlett said August 17th, 2016. Ernst asked if Mr. Keese accepted Mr. Grasewicz's survey. Mr. Keese said yes, he accepts the survey.

Mr. Filipi moved, Ernst seconded and the Board voted to close the public hearing.

Filipi began reading the mandatory findings for granting an Equitable Waiver.

- a) *That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value.* Filipi, Wittenborg, Handy, Ernst and Yon voted in the affirmative.
- b) *That the violation was not the outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority.* Filipi, Wittenborg, Handy, Ernst and Yon voted in the affirmative.

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- c) *That the physical dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property.* Filipi, Wittenborg, Handy, Ernst and Yon voted in the affirmative.
- d) *That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.* Filipi, Wittenborg, Handy, Ernst and Yon voted in the affirmative.

Filipi made a motion to grant the Equitable Waiver. Filipi, Wittenborg, Handy, Ernst and Yon voted in the affirmative.

Minutes. The board reviewed July 12, 2016 meeting minutes and the board approved as written. Filipi, Wittenborg, Handy, Ernst voted in the affirmative.

The Board adjourned at 8:25pm.